1950 **File No.** B. Medical /50

Legal Deptt

B **BRANCH**

K.S.R.

Subject:— L.C. Bill No II of 1950

A Bill to amend the Bombay

Medical Act, 1912

Bom. Act No. IV of 1950

P.40
E

File No. B. Medical /50

Gen. 194

855-B

Legal Department.

A revised draft Bill is sent herewith.

2. Clause 2 of the H. & L.S.D. draft: In view of the provisions of paragraph 8 of the Government of India (Adaptation of Indian Laws) Order, 1937, the amendment proposed in this clause is not necessary. Clause 2 has, therefore, been deleted from the revised draft.

3. Clause 7 of H. & M.S.D. draft: The proviso to the proposed new section 7(ii) provides that the medical council may register any medical practitioner of Indian nationality and Indian parentage even though he does not possess the qualifications included in the Second Schedule to the Indian Medical Council Act, 1933. The expressions 'Indian nationality' and 'Indian parentage' have not been defined anywhere. The expression 'Native of India' has been substituted therefor and a suitable explanation of that expression has been added to achieve the object in view.

4. The subject matter of the Bill falls under entry 16 in Part I of List III in the Seventh Schedule to the Government of India Act, 1935. Since the provisions of the Bombay Medical Act, 1912, which is an existing law relating to entry 16 in the Concurrent Legislative List, it will be necessary to reserve the Bill for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935. The Bill does not require any sanction of recommendations under the said Act.

5. A revised draft Statement of Objects and Reasons is sent herewith.

Sd. J.R.Dhurandhar.
18/1.

Additional Secretary to Government.

SHE/22.6. K.S.R. 23/6 U.R. to H. & L.S.D., No. 444, dated the 18th January 1939.

Legal Department.

The necessary amendment has been carried out in the revised draft Bill at page 185 by the substitution of a new sub-clause (b) for sub-clauses (b) and (c).

Sd/-

Additional Secretary to Government.

H.M. (Health).

SRT/22.6.

Bills.

A Bill to amend the
Bombay Medical Act, 1912.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 10094.
Bombay Castle, 18th July 1950.

RESOLUTION :- The Bill with the Statement of Objects and Reasons should be forwarded to the Manager, Government Central Press, Bombay, for publication in the Bombay Government Gazette, dated the 18th July 1950, as L.C. Bill No. II of 1950.

2. The Bill and the Statement of Objects and Reasons should be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations should be published in the Bombay Government Gazette on the 27th July 1950.

3. The dates of the various publications should be reported to the Bombay Legislature Department.

By order of the Governor of Bombay,

S.L.Chaudhari,

Assistant Secretary to Government.

TO

The Manager, Government Central Press, Bombay (with the Bill and the Statement of Objects and Reasons and with a request that 300 Gazette copies of the Bill and the S.O.R. may be forwarded to the Bombay Legislature Department for distribution to the members of the Bombay Legislature and 30 copies for the use of the Legal Department and 20 copies for the use of the Local Self Government and Public Health Department.

The Local Self Government and Public Health Department.
*The Oriental Translator to Government,
The Bombay Legislature Department,
The Director of Publicity, Bombay,
The Enquiry Officer for the Secretariat, Bombay.

} with a copy of the Bill and the S.O.R.

* with five extra copies of the Bill and the S.O.R.

IMMEDIATE.

No.246-L.
Legal Department,
Council Hall, Poona, 3rd November 1950.

From

Shri J.K.Dharandhar,
Additional Secretary to the Government of Bombay,
Legal Department.

To

The Secretary to the Governor of Bombay.

Subject :- The Bombay Medical (Amendment) Bill, 1950.

Sir,

With reference to article 200 of the Constitution of India, I am directed to forward herewith for being presented to His Excellency the Governor the authentic copy of the Bombay Medical (Amendment) Bill, 1950, which was read for the third time and passed at the meetings of the Bombay Legislative Council and the Bombay Legislative Assembly held on the 27th September 1950 and the 16th October 1950, respectively. The Amendment made by the Bombay Legislative Assembly was agreed to by the Bombay Legislative Council on the 25th October 1950.

2. The subject-matter of the Bill falls under entries 26 and 47 in List III in the Seventh Schedule to the Constitution of India. As the provisions of the Bill are repugnant to the provisions of the Bombay Medical Act, 1912, which is an existing law relating to entry 26 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the President with reference to article 254(2) of the Constitution.

3 .....

3. I also forward herewith six copies of each of

		the items Nos.
1.	Bill as introduced in the Bombay Legislative Council with the Statement of Objects and Reasons.	1 and
2.	Bill as read for the third time and passed by the Bombay Legilsative Assembly.	2 and
3.	Extracts from the proceedings of the Bombay Legislative Council dated the 27th September and 25th October 1950 and of the Bombay Legislative Assembly dated the 14th and 16th October 1950.	two copies

of item No. 3 of the papers noted in the margin. The Bill was not referred to a Select Committee.

Yours faithfully,

J.R.Dhurandhar.
2/11.

Addition Secretary to Government.

Through:

The Secretary to the Government of Bombay,
Local Self Government and Public Health Department.

SRT/22.4.

No. G.S. - 3421.

FROM

THE SECRETARY TO THE GOVERNMENT OF BOMBAY.

TO

The Secretary to the Bombay Legislature

Department, Council Hall, Bombay 1.

GOVERNMENT HOUSE.

BOMBAY 6. November 11, 1950.

Subject : The Bombay Medical (Amendment) Bill, 1950.

Sir,

With reference to the Bombay Medical (Amendment) Bill, 1950, which was passed by the Bombay Legislative Council and the Bombay Legislative Assembly on September 27 and October 16, 1950, respectively, I am directed to state, for the information of the Honourable the Speaker and the Honourable the Chairman, that as the provisions of the Bill are repugnant to the provisions of the Bombay Medical Act, 1912, which is an existing law relating to entry 26 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the President with reference to Article 254(2) of the Constitution of India. His Excellency the Governor is accordingly pleased, under Article 200 of the Constitution, to declare that he reserves the Bill for the consideration of the President.

Yours faithfully,

L.M.Kadkarni.

Secretary to the Governor of Bombay.

* * * * * *

No. G.S.-3422
Office of the Secretary to the Governor,
Government House, Bombay No.6,
November 11, 1950.

Copy forwarded with compliments for information to :-

(1) The Additional Secretary to Government, Legal Department, with reference to his letter No. 245-L, dated November 3, 1950.
(2) The Secretary to Government, Local Self Government and Public Health Department, with reference to his endorsement No. 4867/53332-H, dated November 6, 1950.

Secretary to the Governor.

SMT/22.6.

No.G.S. 3848.

FROM

THE SECRETARY TO THE GOVERNOR OF BOMBAY.

TO

The Additional Secretary to Government,

Legal Department.

GOVERNMENT HOUSE,

BOMBAY 6. December 18, 1950.

Subject: The Bombay Medical (Amendment) Bill, 1950.

Sir,

With reference to the correspondence ending with your letter No. 17609, dated December 12, 1950, I am directed to say that intimation has been received from the Government of India, Ministry of Home Affairs, that the President assented to the Bombay Medical (Amendment) Bill, 1950, on December 14, 1950.

Yours faithfully,

Sd/-

for Secretary to the Governor of Bombay.

SMT/22.6

No. G.S. 2882.

FROM

THE SECRETARY TO THE GOVERNOR OF BOMBAY.

TO

The Additional Secretary to Government,

Legal Department.

GOVERNMENT HOUSE,

BOMBAY 6, December 20, 1950.

Subject: The Bombay Medical (Amendment) Bill, 1950.

Sir,

In continuation of my letter No. G.S. - 3648, dated December 18, 1950, I am directed to forward herewith the authentic copy of the Bombay Medical (Amendment) Bill, 1950, with the President's assent signified thereon.

Yours faithfully,

Sd/-

for Secretary to the Governor of Bombay.

SNT/22.6.

ACTS, &c.-
Publication of the
Bombay Medical (Amendment) Act, 1950.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 17995.
Bombay Castle, 20th December 1950.

Letter to the Secretary to the Governor, No. 246-L, dated the 3rd November 1950.

Letter from the Secretary to the Governor, No. G.S. 3848, dated the 18th December 1950.

"With reference to the correspondence ending with your letter No. 17609, dated December 12, 1950, I am directed to say that intimation has been received from the Government of India, Ministry of Home Affairs, that the President assented to the Bombay Medical (Amendment) Bill, 1950, on December 14, 1950."

RESOLUTION:- The law should be published as Bombay Act No. LV of 1950, in the Bombay Government Gazette dated the 20th December 1950.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Local Self Government and Public Health Department.

By order of the Governor of Bombay,

S.L.Chaudhari.
Assistant Secretary to Government.

To

The Manager, Government Central Press, Bombay (with a of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department),
The Local Self Government and Public Health Department,
*The Oriental Translator to Government,
The Bombay Legislature Department,
The Director of Publicity, Bombay,
The Enquiry Officer for the Secretariat, Bombay
with a copy of the Act.

* With four extra copies of the Act.

Registered, No. B-1

The

Bombay Government Gazette

PUBLISHED BY AUTHORITY

TUESDAY, 18TH JULY 1950.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V

[To be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations to be published in the "Bombay Government Gazette". The dates of publication to be reported.]

The following Bill is published under the proviso to rule 79 of the Bombay Legislative Council Rules :—

L. C. BILL No. II OF 1950.

A Bill to amend the Bombay Medical Act, 1912.

Bom. VI of 1912.

WHEREAS it is expedient to amend the Bombay Medical Act, 1912, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Medical (Amendment) Act, 1950.

(*2*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Bom. VI of 1912.

Amendment of section 1 of Bom. VI of 1912.

2. In section 1 of the Bombay Medical Act, 1912 (hereinafter called the said Act),—

(*1*) in the marginal note to the said section, for the words ", extent and definition" the words "and extent" shall be substituted;

(*2*) sub-section (*3*) shall be deleted.

Amendment of section 2 of Bom. VI of 1912.

3. In section 2 of the said Act,—

(*1*) for sub-section (*2*), the following shall be substituted, namely :—

"(*2*) The Medical Council shall consist of fourteen members who shall be appointed in the following manner, namely :—

(*a*) five members nominated by the State Government ;

(*b*) three members elected by—

(*i*) the members of Faculties of Medicine of the Universities established by any law for the time being in force in the State of Bombay, and

(*ii*) the members of the Governing Body of the College of Physicians and Surgeons, Bombay :

Provided that no person who is a member of two or more such Faculties or of any such Faculty and the said Governing Body shall be entitled to more than one vote ;

(*c*) six members elected by the medical practitioners who are registered under this Act." ;

(*2*) for sub-section (*3*), the following shall be substituted, namely :—

"(*3*) The President of the Medical Council shall be elected by the members from amongst themselves.

(*4*) The election of the President and members shall, subject to the provisions of this Act, be held at such time and place and in such manner as the Medical Council may, by rules or regulations made from time to time in this behalf, direct."

Amendment of section 3 of Bom. VI of 1912.

4. In section 3 of the said Act,—

(*1*) for sub-section (*1*), the following shall be substituted, namely :—

"(*1*) The President and members of the Medical Council shall hold office for a term of five years from the date of their nomination or election or until their successors have been duly nominated or elected, whichever is longer, and shall be eligible for re-nomination or re-election, as the case may be.";

(*2*) in sub-section (*4*),—

(*a*) in clause (*a*), the words "from India" shall be deleted ;

(*b*) clause (*b*) shall be deleted ;

(*c*) in clause (*c*),—

(*i*) for the words, brackets and letters "In any case not provided for in clauses (*a*) and (*b*)" the words, brackets and letter "Except in the case provided for in clause (*a*)," shall be substituted;

(*ii*) after the word "consecutive" the word "ordinary" shall be inserted.

Amendment of section 5 of Bom. VI of 1912.

5. In section 5 of the said Act, in sub-section (*1*),—

(*1*) the words "granting leave to" shall be deleted;

(*2*) after the words "act as Registrar", where they occur for the first time, the words "for a period which exceeds or is likely to exceed the period which the State Government may, from time to time, direct" shall be inserted.

Amendment of section 7 of Bom. VI of 1912.

6. In section 7 of the said Act,—

(*1*) for sub-section (*1*), the following shall be substituted, namely :—

"(*1*) (*a*) Every person shall, if he holds any of the medical qualifications included in the First or Second Schedule to the Indian Medical Council Act, 1933, be entitled to be registered under this Act, on payment of a fee of fifteen rupees, on giving a correct description of his qualifications, with the dates on which they were granted, and on presentation of his degree, diploma or licence.

XXVII of 1933.

(*b*) No person who possesses a medical qualification granted by any authority in any place outside the territory of India other than those specified in the Second Schedule to the said Act shall be registered under this Act, unless the procedure specified in clause (*c*) has been followed.

(*c*) The Medical Council shall forward to the Executive Committee constituted under section 9 of the Indian Medical Council Act, 1933, an application for registration received by it from any medical practitioner who is a citizen of India but who does not possess any of the medical qualifications granted by a medical institution specified in the said Second Schedule to the said Act. If the said Committee is satisfied that the degree, diploma, licence or certificate held by the applicant is such as to secure the possession by the applicant of requisite knowledge and skill for the efficient practice of medicine, surgery or midwifery, it may recommend that the person should be registered and the Medical Council shall accordingly register him.";

XXVII of 1933.

(*2*) in sub-section (*1a*),—

(*a*) after the words "registration certificate" the words "and on payment of a fee of fifteen rupees" shall be inserted;

(*b*) the words "free of charge," shall be deleted.

Substitution of new section for section 9 of Bom. VI of 1912.

7. For section 9 of the said Act, the following shall be substituted, namely :—

Removal of medical practitioner's name from register for misconduct.

"9. (*1*) If a medical practitioner has been after due inquiry by the Medical Council found guilty of any misconduct, the Medical Council may—

(*a*) direct the name of such medical practitioner to be removed at once from the register, or

(*b*) postpone the making of such direction for such period and under such conditions as it thinks fit :

Provided that if after or at any time before the expiry of the period so specified, the Medical Council is satisfied that the medical practitioner has not contravened any of the conditions so prescribed and his conduct is otherwise satisfactory, the Medical Council may direct that his name shall not be removed from the register in consequence of the misconduct of which he was found guilty.

Explanation.—For the purposes of this section, 'misconduct' shall mean—

(*a*) the conviction of the medical practitioner by a criminal court for an offence which is cognizable within the meaning of the Code of Criminal Procedure, 1898; V of 1898.

(*b*) the conviction under the Army Act, 1950, of the medical practitioner subject to military law for an offence which is cognizable within the meaning of the Code of Criminal Procedure, 1898; or XLVI of 1950. V of 1898.

(*c*) any conduct which, in the opinion of the Medical Council, is infamous in relation to the medical profession.

(*2*) The Medical Council may, at any subsequent date, if they think fit, direct that any name so removed shall be re-entered."

Insertion of new section 9A in Bom. VI of 1912.

8. After section 9 of the said Act, the following section shall be inserted, namely :—

Renewal fee.

"9A. (*1*) Notwithstanding anything contained in section 7 or 17, the Medical Council may direct that a renewal fee of such amount as may be approved by the State Government shall be paid by each medical practitioner for the continuance of his name on the register.

(*2*) If the renewal fee is not paid before the date fixed by the Medical Council the Registrar shall remove the name of the defaulter from the register :

Provided that the name so removed may be re-entered in the register on payment of the renewal fee in such manner and subject to such conditions as the Medical Council may, by rules or regulations, direct.".

Amendment of section 10 of Bom. VI of 1912.

9. In section 10 of the said Act,—

(*1*) in sub-section (*1*),—

(*a*) the words "either under the Medical Acts or" shall be deleted.

(*b*) after the words "this Act" the words and figures "or under the Bombay Medical Practitioners' Act, 1938" shall be added; Bom. XXVI of 1938.

(*2*) in sub-section (*2*),—

(*a*) the words "under the Medical Acts or" shall be deleted;

(*b*) after the words "this Act" the words and figures "or under the Bombay Medical Practitioners' Act, 1938" shall be added. Bom. XXV of 1938.

Amendment of section 11 of Bom. VI of 1912.

10. In section 11 of the said Act,—

(*1*) the words "under the Medical Acts or" shall be deleted;

(*2*) after the words "this Act" the words and figures "or under the Bombay Medical Practitioners' Act, 1938" shall be added. Bom. XXVI of 1938.

Substitution of new section for section 17 of Bom. VI of 1912.

11. For section 17 of the said Act, the following shall be substituted, namely :—

Publication of Medical List.

"17. (*1*) The Registrar shall every five years on or before a date to be fixed by the Medical Council cause to be printed and published a correct list of the names, addresses and qualifications of all persons for the time being entered in the Register and the dates when such qualifications were granted, in alphabetical order according to the surnames of the persons registered.

(2) The Registrar shall cause to be printed and published annually on or before a date to be fixed by the Medical Council—

(a) a supplementary list arranged in the manner specified in sub-section (1), of the names, addresses, dates of registration and qualifications together with the dates of acquiring them of all persons for the time being entered or re-entered in the register and not included in any subsisting list or supplementary list already printed and published; and

(b) a separate list arranged in the same manner and giving the same particulars of persons included in any subsisting list or supplementary list whose names have since been erased or removed from and not re-entered in the Register; and

(c) if during any year a medical practitioner included in any subsisting list or supplementary list has communicated a change of address, a further list arranged in the same manner of the medical practitioner who has so communicated the change of address.

(3) Every Court shall presume that every person entered either in the list referred to in sub-section (1) or in any supplementary list referred to in clause (a) of sub-section (2) and not entered in the latest of the separate lists referred to in clause (b) of sub-section (2) is duly registered under this Act and that no other person is so registered."

12. After section 17 of the said Act, the following section shall be inserted, namely:— Insertion of new section 17A in Bom. VI of 1912.

"17A. All elections under this Act shall be made according to the distributive system of voting. Elections to be held by distributive vote.

Explanation.—The distributive system of voting means a system of voting in which every voter shall be entitled to give as many votes as there are seats to be filled:

Provided that no voter shall give more than one vote to any one candidate:

Provided further that no voting papers shall be deemed to be valid unless the voter has recorded all the votes which he is entitled to give."

13. Paragraph 3 of the Schedule to the said Act and the note thereunder shall be deleted. Amendment of Schedule to Bom. VI of 1912.

STATEMENT OF OBJECTS AND REASONS.

For some time past Government has been considering the question of amending the Bombay Medical Act, 1912, with a view to providing a joint electorate for the election of representatives of the general medical profession and for providing a majority of elected members on the Council. It is also proposed to amend certain other provisions of the Act which, it is considered, require amendment.

2. The particular provisions of the Bill which require elucidation are explained in the following notes on clauses:—

(a) *Clause 2(2).*—It has been urged by the Bombay Medical Council that the previleges granted under the existing sections 7(1), 10(1), 10(2) and 11 to persons

registered under the "Medical Acts", viz., the British Medical Acts without their being required to be registered under the Bombay Medical Act should be withdrawn. It is therefore proposed to delete the words "the Medical Acts" wherever they occur in the Act.

(*b*) *Clause 3.*—The Bombay Medical Council at present consists of 13 members including the President, of whom the President and six members are nominated by the State Government and six members are elected by graduates and licentiates. It is now proposed to have an elected President and a majority of elected members on the Council and to give representation to the Universities and the Governing Body of the College of Physicians and Surgeons. These bodies hold medical examinations.

All the five members proposed to be nominated by Government will not necessarily be medical practitioners. Government will be free to nominate persons from among the members of the legal profession or members of the Bombay Legislative Assembly or the Bombay Legislative Council, if necessary, who can guide the deliberations of the Medical Council when it is considering cases regarding disciplinary action against medical practitioners.

(*c*) *Clause 4(1).*—The amendment is proposed with a view to avoiding difficulties resulting from the non-election or non-nomination of new members.

(*d*) *Clause 4(2).*—The provisions in the existing Act relating to leave to members outside India were inserted for the convenience of Indian Medical Service Officers. As the Indian Medical Service has been abolished, it is now proposed to delete these provisions.

(*e*) *Clause 5.*—The intention is to empower the Medical Council to make temporary appointment of a Registrar during leave period of its permanent Registrar and thus dispense with the previous approval of Government in making officiating appointments. The period for which the Council be permitted to make the officiating appointment will be determined by Government.

(*f*) *Clause 6.*—It is proposed to delete reference to "Medical Acts" in the Bombay Medical Act, 1912, for the reasons stated in paragraph 2(*a*) above. It is also proposed by making definite provisions in the body of the Act to recognise the qualifications included in the First and Second Schedules to the Indian Medical Council Act, 1933, for registration under the Bombay Medical Act, 1912, but on payment of a fee of Rs. 15 which otherwise under the existing provision is free. At present certain suitable qualifications granted by foreign Universities, etc. are not recognisable under the Act for registration. It is proposed now to register on the recommendation of the Medical Council of India medical men who are citizens of India and possess such qualifications.

(*g*) *Clause 7.*—At present under section 9 of the Act, the Medical Council has got to remove from the register, the name of a medical practitioner who has been convicted of an offence mentioned therein or has been found guilty of infamous conduct. It has no discretion to suspend the sentence. The British Medical Council can suspend sentence in such cases if it thought fit. With a view to empowering the Council to pass "suspended sentence", the wording of the section has been suitably modified on the lines of the British Medical Act, 1858.

(*h*) *Clause 8.*—In consonance with the provision in other Acts relating to medical practitioners, it is proposed to empower the Bombay Medical Council to charge a renewal fee for the continuance of the names of practitioners on the register.

(*i*) *Clause 10.*—It is not compulsory at present for the medical practitioners registered under the " Medical Acts " to get registered under the Bombay Medical Acts, 1912, if they are to hold positions or posts in the medical institutions mentioned in the existing section 11, but with the proposed amendment of the section registration under the Bombay Medical Act, 1912, or under the Bombay Medical Practitioners ' Act, 1938, will be obligatory to make them eligible to hold the posts.

(*j*) *Clause 11.*—It is proposed that the register of practitioners should be printed every five years and supplementary lists should be printed annually.

(*k*) *Clause 12.*—It is proposed that all elections under this Act shall be held according to the distributive system of voting which has been defined in section 17A, which is proposed to be inserted in the Act.

(*l*) *Clause 13.*—This is a consequential amendment due to the new section 7(*1*).

(Signed) M. D. D. GILDER.

Dated the 7th June 1950.

By order of the Governor of Bombay,

J. R. DHURANDHAR,
Additional Secretary to the Government of Bombay,
Legal Department.

Bombay, dated the 18th July 1950.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. C. BILL No. II OF 1950.

A Bill to amend the Bombay Medical Act, 1912.

(As read for the third time and passed by the Legislative Council on the 27th September 1950.)

Bom. VI of 1912.

WHEREAS it is expedient to amend the Bombay Medical Act, 1912, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Medical (Amendment) Act, 1950.

(*2*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of section 1 of Bom. VI of 1912.

Bom. VI of 1912.

2. In section 1 of the Bombay Medical Act, 1912 (hereinafter called the said Act),—

(*1*) in the marginal note to the said section, for the words "**,** extent and definition" the words "and extent" shall be substituted;

(*2*) sub-section (*3*) shall be deleted.

Amendment of section 2 of Bom. VI of 1912.

3. In section 2 of the said Act,—

(*1*) for sub-section (*2*), the following shall be substituted, namely :—

"(*2*) The Medical Council shall consist of fourteen members who shall be appointed in the following manner, namely :—

(*a*) five members nominated by the State Government ;

(*b*) three members elected by—

(*i*) the members of Faculties of Medicine of the Universities established by any law for the time being in force in the State of Bombay, and

(*ii*) the members of the Governing Body of the College of Physicians and Surgeons, Bombay :

Provided that no person who is a member of two or more such Faculties orof any such Faculty and the said Governing Body shall be entitled to vote more than once ;

(*c*) six members elected by the medical practitioners who are registered under this Act." ;

(*2*) for sub-section (*3*), the following shall be substituted, namely :—

"(*3*) The President of the Medical Council shall be elected by the members from amongst themselves.

(*4*) The election of the President and members shall, subject to the provisions of this Act, be held at such time and place and in such manner as the Medical Council may, by rules or regulations made from time to time in this behalf, direct."

Amendment of section 3 of Bom. VI of 1912.

4. In section 3 of the said Act,—

(*1*) for sub-section (*1*), the following shall be substituted, namely :—

"(*1*) The President and members of the Medical Council shall hold office for a term of five years from the date of their nomination or election or until their successors have been duly nominated or elected, whichever is longer, and shall be eligible for re-nomination or re-election, as the case may be.";

(*2*) in sub-section (*4*),—

(*a*) in clause (*a*), the words "from India" shall be deleted ;

(*b*) clause (*b*) shall be deleted ;

(*c*) in clause (*c*),—

(*i*) for the words, brackets and letters "In any case not provided for in clauses (*a*) and (*b*)" the words, brackets and letter "Except in the case provided for in clause (*a*)," shall be substituted;

(*ii*) after the word "consecutive" the word "ordinary" shall be inserted.

5. In section 5 of the said Act, in sub-section (*1*),— Amendment of section 5 of Bom. VI of 1912.

(*1*) the words "granting leave to" shall be deleted;

(*2*) after the words "act as Registrar", where they occur for the first time, the words "for a period which exceeds or is likely to exceed the period which the State Government may, from time to time, direct" shall be inserted.

6. In section 7 of the said Act,— Amendment of section 7 of Bom. VI of 1912.

(*1*) for sub-section (*1*), the following shall be substituted, namely:—

"(*1*) (*a*) Every person shall, if he holds any of the medical qualifications included in the First or Second Schedule to the Indian Medical Council Act, 1933, be entitled to be registered under this Act, on payment of a fee of fifteen rupees, on giving a correct description of his qualifications, with the dates on which they were granted, and on presentation of his degree, diploma or licence. XXVII of 1933.

(*b*) No person who possesses a medical qualification granted by any authority in any place outside the territory of India other than those specified in the Second Schedule to the said Act shall be registered under this Act, unless the procedure specified in clause (*c*) has been followed.

(*c*) The Medical Council shall forward to the Executive Committee constituted under section 9 of the Indian Medical Council Act, 1933, an application for registration received by it from any medical practitioner who is a citizen of India but who does not possess any of the medical qualifications granted by a medical institution specified in the said Second Schedule to the said Act. If the said Committee is satisfied that the degree, diploma, licence or certificate held by the applicant is such as to secure the possession by the applicant of requisite knowledge and skill for the efficient practice of medicine, surgery or midwifery, it may recommend that the person should be registered and the Medical Council shall accordingly register him.";

(*2*) in sub-section (*1a*),—

(*a*) after the words "registration certificate." the words "and on payment of a fee of fifteen rupees" shall be inserted;

(*b*) the words "free of charge," shall be deleted.

7. For section 9 of the said Act, the following shall be substituted, namely:— Substitution of new section for section 9 of Bom. VI of 1912.

"9. (*1*) If a medical practitioner has been after due inquiry by the Medical Council found guilty of any misconduct, the Medical Council may— Removal of medical practitioner's name from register for misconduct.

(*a*) direct the name of such medical practitioner to be removed at once from the register, or

(*b*) postpone the making of such direction for such period and under such conditions as it thinks fit:

Provided that if after or at any time before the expiry of the period so specified, the Medical Council is satisfied that the medical practitioner has not contravened any of the conditions so prescribed and his conduct is otherwise satisfactory, the Medical Council may direct that his name shall not be removed from the register in consequence of the misconduct of which he was found guilty.

Explanation.—For the purposes of this section, 'misconduct' shall mean—

(*a*) the conviction of the medical practitioner by a criminal court for an offence which is cognizable within the meaning of the Code of Criminal Procedure, 1898; V of 1898.

(*b*) the conviction under the Army Act, 1950, of the medical practitioner subject to military law for an offence which is cognizable within the meaning of the Code of Criminal Precedure, 1898; or XLVI of 1950. V of 1898.

(*c*) any conduct which, in the opinion of the Medical Council, is infamous in relation to the medical profession.

(*2*) The Medical Council may, at any subsequent date, if they think fit, direct that any name so removed shall be re-entered."

Insertion of new section 9A in Bom. VI of 1912.

8. After section 9 of the said Act, the following section shall be inserted, namely :—

Renewal fee.

"9A. (*1*) Notwithstanding anything contained in section 7 or 17, the Medical Council may direct that a renewal fee of such amount as may be approved by the State Government shall be paid by each medical practitioner for the continuance of his name on the register.

(*2*) If the renewal fee is not paid before the date fixed by the Medical Council the Registrar shall remove the name of the defaulter from the register:

Provided that the name so removed may be re-entered in the register on payment of the renewal fee in such manner and subject to such conditions as the Medical Council may, by rules or regulations, direct.".

Amendment of section 10 of Bom. VI of 1912.

9. In section 10 of the said Act,—

(*1*) in sub-section (*1*),—

(*a*) the words "either under the Medical Acts or" shall be deleted.

(*b*) after the words "this Act" the words and figures "or under the Bombay Medical Practitioners' Act, 1938" shall be added; Bom. XXVI of 1938.

(*2*) in sub-section (*2*),—

(*a*) the words "under the Medical Acts or" shall be deleted;

(*b*) after the words "this Act" the words and figures "or under the Bombay Medical Practitioners' Act, 1938" shall be added. Bom. XXVI of 1938.

Amendment of section 11 of Bom. VI of 1912.

10. In section 11 of the said Act,—

(*1*) the words "under the Medical Acts or" shall be deleted;

(*2*) after the words "this Act" the words and figures "or under the Bombay Medical Practitioners' Act, 1938" shall be added. Bom. XXVI of 1938.

Substitution of new section for section 17 of Bom. VI of 1912.

11. For section 17 of the said Act, the following shall be substituted, namely :—

Publication of Medical List.

"17. (*1*) The Registrar shall every five years on or before a date to be fixed by the Medical Council cause to be printed and published a correct list of the names, addresses and qualifications of all persons for the time being entered in the Register and the dates when such qualifications were granted, in alphabetical order according to the surnames of the persons registered.

(2) The Registrar shall cause to be printed and published annually on or before a date to be fixed by the Medical Council—

(a) a supplementary list arranged in the manner specified in sub-section (1), of the names, addresses, dates of registration and qualifications together with the dates of acquiring them of all persons for the time being entered or re-entered in the register and not included in any subsisting list or supplementary list already printed and published; and

(b) a separate list arranged in the same manner and giving the same particulars of persons included in any subsisting list or supplementary list whose names have since been erased or removed from and not re-entered in the Register; and

(c) if during any year a medical practitioner included in any subsisting list or supplementary list has communicated a change of address, a further list arranged in the same manner of the medical practitioner who has so communicated the change of address.

(3) Every Court shall presume that every person entered either in the list referred to in sub-section (1) or in any supplementary list referred to in clause (a) of sub-section (2) and not entered in the latest of the separate lists referred to in clause (b) of sub-section (2) is duly registered under this Act and that no other person is so registered."

12. After section 17 of the said Act, the following section shall be inserted, namely:— Insertion of new section 17A in Bom. VI of 1912.

"17A. All elections under this Act shall be made according to the distributive system of voting. Elections to be held by distributive vote.

Explanation.—The distributive system of voting means a system of voting in which every voter shall be entitled to give as many votes as there are seats to be filled:

Provided that no voter shall give more than one vote to any one candidate:

Provided further that no voting papers shall be deemed to be valid unless the voter has recorded all the votes which he is entitled to give."

13. Paragraph 3 of the Schedule to the said Act and the note thereunder shall be deleted. Amendment of Schedule to Bom. VI of 1912.

STATEMENT OF OBJECTS AND REASONS.

For some time past Government has been considering the question of amending the Bombay Medical Act, 1912, with a view to providing a joint electorate for the election of representatives of the general medical profession and for providing a majority of elected members on the Council. It is also proposed to amend certain other provisions of the Act which, it is considered, require amendment.

2. The particular provisions of the Bill which require elucidation are explained in the following notes on clauses :—

(*a*) *Clause 2(2).*—It has been urged by the Bombay Medical Council that the privileges granted under the existing sections 7(*1*), 10(*1*), 10(*2*) and 11 to persons registered under the "Medical Acts", viz., the British Medical Acts without their being required to be registered under the Bombay Medical Act should be withdrawn. It is therefore proposed to delete the words " the Medical Acts " wherever they occur in the Act.

(*b*) *Clause 3.*—The Bombay Medical Council at present consists of 13 members including the President, of whom the President and six members are nominated by the State Government and six members are elected by graduates and licentiates. It is now proposed to have an elected President and a majority of elected members on the Council and to give representation to the Universities and the Governing Body of the College of Physicians and Surgeons. These bodies hold medical examinations.

All the five members proposed to be nominated by Government will not necessarily be medical practitioners. Government will be free to nominate persons from among the members of the legal profession or members of the Bombay Legislative Assembly or the Bombay Legislative Council, if necessary, who can guide the deliberations of the Medical Council when it is considering cases regarding disciplinary action against medical practitioners.

(*c*) *Clause 4(1).*—The amendment is proposed with a view to avoiding difficulties resulting from the non-election or non-nomination of new members.

(*d*) *Clause 4(2).*—The provisions in the existing Act relating to leave to members outside India were inserted for the convenience of Indian Medical Service Officers. As the Indian Medical Service has been abolished, it is now proposed to delete these provisions.

(*e*) *Clause 5.*—The intention is to empower the Medical Council to make temporary appointment of a Registrar during leave period of its permanent Registrar and thus dispense with the previous approval of Government in making officiating appointments. The period for which the Council be permitted to make the officiating appointment will be determined by Government.

(*f*) *Clause 6.*—It is proposed to delete reference to " Medical Acts " in the Bombay Medical Act, 1912, for the reasons stated in paragraph 2(*a*) above. It is also proposed by making definite provisions in the body of the Act to recognise the qualifications included in the First and Second Schedules to the Indian Medical Council Act, 1933, for registration under the Bombay Medical Act, 1912, but on payment of a fee of Rs. 15 which otherwise under the existing provision is free. At present certain suitable qualifications granted by foreign Universities, etc. are not recognisable under the Act for registration. It is proposed now to register on the recommendation of the Medical Council of India medical men who are citizens of India and possess such qualifications.

(*g*) *Clause 7.*—At present under section 9 of the Act, the Medical Council has got to remove from the register, the name of a medical practitioner who has been convicted of an offence mentioned therein or has been found guilty of infamous conduct. It has no discretion to suspend the sentence. The British Medical Council can suspend sentence in such cases if it thought fit. With a view to empowering the Council to pass " suspended sentence ", the wording of the section has been suitably modified on the lines of the British Medical Act, 1858.

(*h*) *Clause 8.*—In consonance with the provision in other Acts relating to medical practitioners, it is proposed to empower the Bombay Medical Council to charge a renewal fee for the continuance of the names of practitioners on the register.

(*i*) *Clause 10.*—It is not compulsory at present for the medical practitioners registered under the " Medical Acts " to get registered under the Bombay Medical Acts, 1912, if they are to hold positions or posts in the medical institutions mentioned in the existing section 11, but with the proposed amendment of the section registration under the Bombay Medical Act, 1912, or under the Bombay Medical Practitioners ' Act, 1938, will be obligatory to make them eligible to hold the posts.

(*j*) *Clause 11.*—It is proposed that the register of practitioners should be printed every five years and supplementary lists should be printed annually.

(*k*) *Clause 12.*—It is proposed that all elections under this Act shall be held according to the distributive system of voting which has been defined in section 17A, which is proposed to be inserted in the Act.

(*l*) *Clause 13.*—This is a consequential amendment due to the new section 7(*1*).

M. D. D. GILDER.

Dated the 7th June 1950.

Government of Bombay

LEGAL DEPARTMENT

[L. C. BILL No. II OF 1950]

(As read for the third time and passed by the Legislative Council on the 27th September 1950.)

A Bill to amend the Bombay Medical Act, 1912.

[Dr. M. D. D. Gilder, M.L.A.]

MO-V Bk Hb 250—2

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS,

L. C. BILL No. II OF 1950.

A Bill to amend the Bombay Medical Act, 1912.

(As read for the third time and passed by the Legislative Council on the 27th September 1950.)

(As read for the third time and passed with amendments by the Legislative Assembly on the 16th October 1950.)

Bom. VI of 1912.

WHEREAS it is expedient to amend the Bombay Medical Act, 1912, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Medical (Amendment) Act, 1950.

(*2*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Bom. VI of 1912.

Amendment of section 1 of Bom. VI of 1912.

2. In section 1 of the Bombay Medical Act, 1912 (hereinafter called the said Act),—

(*1*) in the marginal note to the said section, for the words "**, extent and** definition" the words "**and extent**" shall be substituted;

(*2*) sub-section (*3*) shall be deleted.

Amendment of section 2 of Bom. VI of 1912.

3. In section 2 of the said Act,—

(*1*) for sub-section (*2*), the following shall be substituted, namely :—

"(*2*) The Medical Council shall consist of fourteen members who shall be appointed in the following manner, namely :—

(*a*) five members nominated by the State Government out of whom not more than one shall be from amongst those who are not registered under this Act ;

(*b*) three members elected by—

(*i*) the members of Faculties of Medicine of the Universities established by any law for the time being in force in the State of Bombay, and

(*ii*) the members of the Governing Body of the College of Physicians and Surgeons, Bombay :

Provided that no person who is a member of two or more such Faculties or of any such Faculty and the said Governing Body shall be entitled to vote more than once ;

(*c*) six members elected by the medical practitioners who are registered under this Act." ;

(*2*) for sub-section (*3*), the following shall be substituted, namely :—

"(*3*) The President of the Medical Council shall be elected by the members from amongst themselves.

(*4*) The election of the President and members shall, subject to the provisions of this Act, be held at such time and place and in such manner as the Medical Council may, by rules or regulations made from time to time in this behalf, direct.".

Amendment of section 3 of Bom. VI of 1912.

4. In section 3 of the said Act,—

(*1*) for sub-section (*1*), the following shall be substituted, namely :—

"(*1*) The President and members of the Medical Council shall hold office for a term of five years from the date of their nomination or election or until their successors have been duly nominated or elected, whichever is longer, and shall be eligible for re-nomination or re-election, as the case may be.";

(*2*) in sub-section (*4*),—

(*a*) in clause (*a*), the words "from India" shall be deleted ;

(*b*) clause (*b*) shall be deleted ;

(*c*) in clause (*c*),—

(*i*) for the words, brackets and letters "In any case not provided for in clauses (*a*) and (*b*)" the words, brackets and letter "Except in the case provided for in clause (*a*)," shall be substituted;

(*ii*) after the word "consecutive" the word "ordinary" shall be ~~ted~~.

STATEMENT OF OBJECTS AND REASONS.

For some time past Government has been considering the question of amending the Bombay Medical Act, 1912, with a view to providing a joint electorate for the election of representatives of the general medical profession and for providing a majority of elected members on the Council. It is also proposed to amend certain other provisions of the Act which, it is considered, require amendment.

2. The particular provisions of the Bill which require elucidation are explained in the following notes on clauses :—

(*a*) *Clause 2(2)*.—It has been urged by the Bombay Medical Council that the privileges granted under the existing sections 7(*1*), 10(*1*), 10(*2*) and 11 to persons registered under the " Medical Acts ", viz., the British Medical Acts without their being required to be registered under the Bombay Medical Act should be withdrawn. It is therefore proposed to delete the words " the Medical Acts " wherever they occur in the Act.

(*b*) *Clause 3*.—The Bombay Medical Council at present consists of 13 members including the President, of whom the President and six members are nominated by the State Government and six members are elected by graduates and licentiates. It is now proposed to have an elected President and a majority of elected members on the Council and to give representation to the Universities and the Governing Body of the College of Physicians and Surgeons. These bodies hold medical examinations.

All the five members proposed to be nominated by Government will not necessarily be medical practitioners. Government will be free to nominate persons from among the members of the legal profession or members of the Bombay Legislative Assembly or the Bombay Legislative Council, if necessary, who can guide the deliberations of the Medical Council when it is considering cases regarding disciplinary action against medical practitioners.

(*c*) *Clause 4(1)*.—The amendment is proposed with a view to avoiding difficulties resulting from the non-election or non-nomination of new members.

(*d*) *Clause 4(2)*.—The provisions in the existing Act relating to leave to members outside India were inserted for the convenience of Indian Medical Service Officers. As the Indian Medical Service has been abolished, it is now proposed to delete these provisions.

(*e*) *Clause 5*.—The intention is to empower the Medical Council to make temporary appointment of a Registrar during leave period of its permanent Registrar and thus dispense with the previous approval of Government in making officiating appointments. The period for which the Council be permitted to make the officiating appointment will be determined by Government.

(*f*) *Clause 6*.—It is proposed to delete reference to " Medical Acts " in the Bombay Medical Act, 1912, for the reasons stated in paragraph 2(*a*) above. It is also proposed by making definite provisions in the body of the Act to recognise the qualifications included in the First and Second Schedules to the Indian Medical Council Act, 1933, for registration under the Bombay Medical Act, 1912, but on payment of a fee of Rs. 15 which otherwise under the existing provision is free. At present certain suitable qualifications granted by foreign Universities, etc. are not recognisable under the Act for registration. It is proposed now to register on the recommendation of the Medical Council of India medical men who are citizens of India and possess such qualifications.

(*g*) *Clause 7.*—At present under section 9 of the Act, the Medical Council has got to remove from the register, the name of a medical practitioner who has been convicted of an offence mentioned therein or has been found guilty of infamous conduct. It has no discretion to suspend the sentence. The British Medical Council can suspend sentence in such cases if it thought fit. With a view to empowering the Council to pass " suspended sentence ", the wording of the section has been suitably modified on the lines of the British Medical Act, 1858.

(*h*) *Clause 8.*—In consonance with the provision in other Acts relating to medical practitioners, it is proposed to empower the Bombay Medical Council to charge a renewal fee for the continuance of the names of practitioners on the register.

(*i*) *Clause 10.*—It is not compulsory at present for the medical practitioners registered under the " Medical Acts " to get registered under the Bombay Medical Acts, 1912, if they are to hold positions or posts in the medical institutions mentioned in the existing section 11, but with the proposed amendment of the section registration under the Bombay Medical Act, 1912, or under the Bombay Medical Practitioners' Act, 1938, will be obligatory to make them eligible to hold the posts.

(*j*) *Clause 11.*—It is proposed that the register of practitioners should be printed every five years and supplementary lists should be printed annually.

(*k*) *Clause 12.*—It is proposed that all elections under this Act shall be held according to the distributive system of voting which has been defined in section 17A, which is proposed to be inserted in the Act.

(*l*) *Clause 13.*—This is a consequential amendment due to the new section 7(*1*).

M. D. D. GILDER.

Dated the 7th June 1950.

5. In section 5 of the said Act, in sub-section (*1*),— Amendment of section 5 of Bom. V/ of 1912.

(*1*) the words "granting leave to" shall be deleted;

(*2*) after the words "act as Registrar", where they occur for the first time, the words "for a period which exceeds or is likely to exceed the period which the State Government may, from time to time, direct" shall be inserted.

6. In section 7 of the said Act,— Amendment of section 7 of Bom. VI of 1912.

(*1*) for sub-section (*1*), the following shall be substituted, namely :—

"(*1*) (*a*) Every person shall, if he holds any of the medical qualifications included in the First or Second Schedule to the Indian Medical Council Act, 1933, be entitled to be registered under this Act, on payment of a fee of fifteen rupees, on giving a correct description of his qualifications, with the dates on which they were granted, and on presentation of his degree, diploma or licence.

XXVII of 1933.

(*b*) No person who possesses a medical qualification granted by any authority in any place outside the territory of India other than those specified in the Second Schedule to the said Act shall be registered under this Act, unless the procedure specified in clause (*c*) has been followed.

(*c*) The Medical Council shall forward to the Executive Committee constituted under section 9 of the Indian Medical Council Act, 1933, an application for registration received by it from any medical practitioner who is a citizen of India but who does not possess any of the medical qualifications granted by a medical institution specified in the said Second Schedule to the said Act. If the said Committee is satisfied that the degree, diploma, licence or certificate held by the applicant is such as to secure the possession by the applicant of requisite knowledge and skill for the efficient practice of medicine, surgery or midwifery, it may recommend that the person should be registered and the Medical Council shall accordingly register him.";

XXVII of 1933.

(*2*) in sub-section (*1a*),—

(*a*) after the words "registration certificate" the words "and on payment of a fee of fifteen rupees" shall be inserted;

(*b*) the words "free of charge," shall be deleted.

7. For section 9 of the said Act, the following shall be substituted, namely :— Substitution of new section for section 9 of Bom. VI of 1912.

"9. (*1*) If a medical practitioner has been after due inquiry by the Medical Council found guilty of any misconduct, the Medical Council may— Removal of medical practitioner's name from register for misconduct.

(*a*) direct the name of such medical practitioner to be removed at once from the register, or

(*b*) postpone the making of such direction for such period and under such conditions as t thinks fit :

Provided that if after or at any time before the expiry of the period so specified, the Medical Council is satisfied that the medical practitioner has not contravened any of the conditions so prescribed and his conduct is otherwise satisfactory, the Medical Council may direct that his name shall not be removed from the register in consequence of the misconduct of which he was found guilty.

Explanation.—For the purposes of this section, 'misconduct' shall mean—

(*a*) the conviction of the medical practitioner by a criminal court for an offence which involves moral turpitude and which is cognizable within the meaning of the Code of Criminal Procedure, 1898; 15 V of 1898.

(*b*) the conviction under the Army Act, 1950, of the medical practitioner subject to military law for an offence which is cognizable within the meaning of the Code of Criminal Procedure, 1898; or XLVI of 1950. V of 1898.

(*c*) any conduct which, in the opinion of the Medical Council, is infamous in relation to the medical profession. 20

(*2*) The Medical Council may, at any subsequent date, if they think fit, direct that any name so removed shall be re-entered.".

Insertion of new section 9A in Bom. VI of 1912.

8. After section 9 of the said Act, the following section shall be inserted, namely :—

Renewal fee.

"9A. (*1*) Notwithstanding anything contained in section 7 or 17, the Medical Council may direct that a renewal fee of such amount as may be approved by the State Government shall be paid by each medical practitioner for the continuance of his name on the register. 5

(*2*) If the renewal fee is not paid before the date fixed by the Medical Council the Registrar shall remove the name of the defaulter from the register :

Provided that the name so removed may be re-entered in the register on payment of the renewal fee in such manner and subject to such conditions as the Medical Council may, by rules or regulations, direct.". 10

Amendment of section 10 of Bom. VI of 1912.

9. In section 10 of the said Act,—

(*1*) in sub-section (*1*),—

(*a*) the words "either under the Medical Acts or" shall be deleted.

(*b*) after the words "this Act" the words and figures "or under the Bombay Medical Practitioners' Act, 1938" shall be added; Bom. XXVI of 1938.

(*2*) in sub-section (*2*),—

(*a*) the words "under the Medical Acts or" shall be deleted;

(*b*) after the words "this Act" the words and figures "or under the Bombay Medical Practitioners' Act, 1938" shall be added. Bom. XXVI of 1938.

Amendment of section 11 of Bom. VI of 1912.

10. In section 11 of the said Act,—

(*1*) the words "under the Medical Acts or" shall be deleted;

(*2*) after the words "this Act" the words and figures "or under the Bombay Medical Practitioners' Act, 1938" shall be added. Bom. XXVI of 1938.

Substitution of new section for section 17 of Bom. VI of 1912.

11. For section 17 of the said Act, the following shall be substituted, namely :—

Publication of Medical List.

"17. (*1*) The Registrar shall every five years on or before a date to be fixed by the Medical Council cause to be printed and published a correct list of the names, addresses and qualifications of all persons for the time being entered in the Register and the dates when such qualifications were granted, in alphabetical order according to the surnames of the persons registered. 5

(*2*) The Registrar shall cause to be printed and published annually on or before a date to be fixed by the Medical Council—

(*a*) a supplementary list arranged in the manner specified in sub-section (*1*), of the names, addresses, dates of registration and qualifications together with the dates of acquiring them of all persons for the time being entered or re-entered in the register and not included in any subsisting list or supplementary list already printed and published; and

(*b*) a separate list arranged in the same manner and giving the same particulars of persons included in any subsisting list or supplementary list whose names have since been erased or removed from and not re-entered in the Register; and

(*c*) if during any year a medical practitioner included in any subsisting list or supplementary list has communicated a change of address, a further list arranged in the same manner of the medical practitioner who has so communicated the change of address.

(*3*) Every Court shall presume that every person entered either in the list referred to in sub-section (*1*) or in any supplementary list referred to in clause (*a*) of sub-section (*2*) and not entered in the latest of the separate lists referred to in clause (*b*) of sub-section (*2*) is duly registered under this Act and that no other person is so registered.".

12. After section 17 of the said Act, the following section shall be inserted, namely:— Insertion of new section 17A in Bom. VI of 1912.

"17A. All elections under this Act shall be made according to the distributive system of voting. Elections to be held by distributive vote.

Explanation.—The distributive system of voting means a system of voting in which every voter shall be entitled to give as many votes as there are seats to be filled:

Provided that no voter shall give more than one vote to any one candidate:

Provided further that no voting papers shall be deemed to be valid unless the voter has recorded all the votes which he is entitled to give.".

13. Paragraph 3 of the Schedule to the said Act and the note thereunder shall be deleted. Amendment of Schedule to Bom. VI of 1912.

Government of Bombay

LEGAL DEPARTMENT

[L. C. BILL No. II OF 1950.]

(As read for the third time and passed by the Legislative Council on the 27th September 1950.)

(As read for the third time and passed with amendments by the Legislative Assembly on the 16th October 1950.)

A Bill to amend the Bombay Medical Act, 1912.

[Dr. M. D. D. GILDER, M.L.A.]

MO-V Bk Hb 308—2

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. C. BILL No. II OF 1950.

A Bill to amend the Bombay Medical Act, 1912.

(As read for the third time and passed by the Legislative Council on the 27th September 1950.)

(As read for the third time and passed with amendments by the Legislative Assembly on the 16th October 1950.)

(Amendments made by the Legislative Assembly were agreed to by the Legislative Council on the 25th October 1950.)

Bom. VI of 1912.

WHEREAS it is expedient to amend the Bombay Medical Act, 1912, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Medical (Amendment) Act, 1950.

(*2*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Bom. VI of 1912.

Amendment of section 1 of Bom. VI of 1912.

2. In section 1 of the Bombay Medical Act, 1912 (hereinafter called the said Act),—

(*1*) in the marginal note to the said section, for the words "**,** extent and definition" the words "and extent" shall be substituted;

(*2*) sub-section (*3*) shall be deleted,

Amendment of section 2 of Bom. VI of 1912.

3. In section 2 of the said Act,—

(*1*) for sub-section (*2*), the following shall be substituted, namely :—

"(*2*) The Medical Council shall consist of fourteen members who shall be appointed in the following manner, namely :—

(*a*) five members nominated by the State Government out of whom not more than one shall be from amongst those who are not registered under this Act ;

(*b*) three members elected by—

(*i*) the members of Faculties of Medicine of the Universities established by any law for the time being in force in the State of Bombay, and

(*ii*) the members of the Governing Body of the College of Physicians and Surgeons, Bombay :

Provided that no person who is a member of two or more such Faculties or of any such Faculty and the said Governing Body shall be entitled to vote more than once ;

(*c*) six members elected by the medical practitioners who are registered under this Act." ;

(*2*) for sub-section (*3*), the following shall be substituted, namely :—

"(*3*) The President of the Medical Council shall be elected by the members from amongst themselves.

(*4*) The election of the President and members shall, subject to the provisions of this Act, be held at such time and place and in such manner as the Medical Council may, by rules or regulations made from time to time in this behalf, direct.".

Amendment of section 3 of Bom. VI of 1912.

4. In section 3 of the said Act,—

(*1*) for sub-section (*1*), the following shall be substituted, namely :—

"(*1*) The President and members of the Medical Council shall hold office for a term of five years from the date of their nomination or election or until their successors have been duly nominated or elected, whichever is longer, and shall be eligible for re-nomination or re-election, as the case may be.";

(*2*) in sub-section (*4*),—

(*a*) in clause (*a*), the words "from India" shall be deleted ;

(*b*) clause (*b*) shall be deleted ;

(*c*) in clause (*c*),—

(*i*) for the words, brackets and letters "In any case not provided for in clauses (*a*) and (*b*)" the words, brackets and letter "Except in the case provided for in clause (*a*)," shall be substituted;

(*ii*) after the word "consecutive" the word "ordinary" shall be inserted.

5. In section 5 of the said Act, in sub-section (*1*),— Amendment of section 5 of Bom. V/ of 1912.

(*1*) the words "granting leave to" shall be deleted;

(*2*) after the words "act as Registrar", where they occur for the first time, the words "for a period which exceeds or is likely to exceed the period which the State Government may, from time to time, direct" shall be inserted.

6. In section 7 of the said Act,— Amendment of section 7 of Bom. VI of 1912.

(*1*) for sub-section (*1*), the following shall be substituted, namely :—

"(*1*) (*a*) Every person shall, if he holds any of the medical qualifications included in the First or Second Schedule to the Indian Medical Council Act, 1933, be entitled to be registered under this Act, on payment of a fee of fifteen rupees, on giving a correct description of his qualifications, with the dates on which they were granted, and on presentation of his degree, diploma or licence. XXVII of 1933.

(*b*) No person who possesses a medical qualification granted by any authority in any place outside the territory of India other than those specified in the Second Schedule to the said Act shall be registered under this Act, unless the procedure specified in clause (*c*) has been followed.

(*c*) The Medical Council shall forward to the Executive Committee constituted under section 9 of the Indian Medical Council Act, 1933, an application for registration received by it from any medical practitioner who is a citizen of India but who does not possess any of the medical qualifications granted by a medical institution specified in the said Second Schedule to the said Act. If the said Committee is satisfied that the degree, diploma, licence or certificate held by the applicant is such as to secure the possession by the applicant of requisite knowledge and skill for the efficient practice of medicine, surgery or midwifery, it may recommend that the person should be registered and the Medical Council shall accordingly register him.";

(*2*) in sub-section (*1a*),—

(*a*) after the words "registration certificate" the words "and on payment of a fee of fifteen rupees" shall be inserted;

(*b*) the words "free of charge," shall be deleted.

7. For section 9 of the said Act, the following shall be substituted, namely :— Substitution of new section for section 9 of Bom. VI of 1912.

"9. (*1*) If a medical practitioner has been after due inquiry by the Medical Council found guilty of any misconduct, the Medical Council may— Removal of medical practitioner's name from register for misconduct.

(*a*) direct the name of such medical practitioner to be removed at once from the register, or

(*b*) postpone the making of such direction for such period and under such conditions as it thinks fit:

Provided that if after or at any time before the expiry of the period so specified, the Medical Council is satisfied that the medical practitioner has not contravened any of the conditions so prescribed and his conduct is otherwise satisfactory, the Medical Council may direct that his name shall not be removed from the register in consequence of the misconduct of which he was found guilty.

Explanation.—For the purposes of this section, 'misconduct' shall mean—

(*a*) the conviction of the medical practitioner by a criminal court for an offence which involves moral turpitude and which is cognizable within the meaning of the Code of Criminal Procedure, 1898; V of 1898.

(*b*) the conviction under the Army Act, 1950, of the medical practitioner subject to military law for an offence which is cognizable within the meaning of the Code of Criminal Procedure, 1898; or XLVI of 1950. V of 1898.

(*c*) any conduct which, in the opinion of the Medical Council, is infamous in relation to the medical profession.

(*2*) The Medical Council may, at any subsequent date, if they think fit, direct that any name so removed shall be re-entered.".

Insertion of new section 9A in Bom. VI of 1912.

8. After section 9 of the said Act, the following section shall be inserted, namely :—

Renewal fee.

"9A. (*1*) Notwithstanding anything contained in section 7 or 17, the Medical Council may direct that a renewal fee of such amount as may be approved by the State Government shall be paid by each medical practitioner for the continuance of his name on the register.

(*2*) If the renewal fee is not paid before the date fixed by the Medical Council the Registrar shall remove the name of the defaulter from the register:

Provided that the name so removed may be re-entered in the register on payment of the renewal fee in such manner and subject to such conditions as the Medical Council may, by rules or regulations, direct.".

Amendment of section 10 of Bom. VI of 1912.

9. In section 10 of the said Act,—

(*1*) in sub-section (*1*),—

(*a*) the words "either under the Medical Acts or" shall be deleted.

(*b*) after the words "this Act" the words and figures "or under the Bombay Medical Practitioners' Act, 1938" shall be added; Bom. XXVI of 1938.

(*2*) in sub-section (*2*),—

(*a*) the words "under the Medical Acts or" shall be deleted;

(*b*) after the words "this Act" the words and figures "or under the Bombay Medical Practitioners' Act, 1938" shall be added. Bom. XXVI of 1938.

Amendment of section 11 of Bom. VI of 1912.

10. In section 11 of the said Act,—

(*1*) the words "under the Medical Acts or" shall be deleted;

(*2*) after the words "this Act" the words and figures "or under the Bombay Medical Practitioners' Act, 1938" shall be added. Bom. XXVI of 1938.

Substitution of new section for section 17 of Bom VI of 1912.

11. For section 17 of the said Act, the following shall be substituted, namely :—

Publication of Medical List.

"17. (*1*) The Registrar shall every five years on or before a date to be fixed by the Medical Council cause to be printed and published a correct list of the names, addresses and qualifications of all persons for the time being entered in the Register and the dates when such qualifications were granted, in alphabetical order according to the surnames of the persons registered.

Government of Bombay

LEGAL DEPARTMENT

[L. C. BILL No. II OF 1950.]

(As read for the third time and passed by the Legislative Council on the 27th September 1950.)

(As read for the third time and passed with amendments by the Legislative Assembly on the 16th October 1950.)

A Bill to amend the Bombay Medical Act, 1912.

[Dr. M. D. D. GILDER, M.L.A.]

MO-V Bk Hb 308—2

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

(*2*) The Registrar shall cause to be printed and published annually on or before a date to be fixed by the Medical Council—

(*a*) a supplementary list arranged in the manner specified in sub-section (*1*), of the names, addresses, dates of registration and qualifications together with the dates of acquiring them of all persons for the time being entered or re-entered in the register and not included in any subsisting list or supplementary list already printed and published; and

(*b*) a separate list arranged in the same manner and giving the same particulars of persons included in any subsisting list or supplementary list whose names have since been erased or removed from and not re-entered in the Register; and

(*c*) if during any year a medical practitioner included in any subsisting list or supplementary list has communicated a change of address, a further list arranged in the same manner of the medical practitioner who has so communicated the change of address.

(*3*) Every Court shall presume that every person entered either in the list referred to in sub-section (*1*) or in any supplementary list referred to in clause (*a*) of sub-section (*2*) and not entered in the latest of the separate lists referred to in clause (*b*) of sub-section (*2*) is duly registered under this Act and that no other person is so registered.".

12. After section 17 of the said Act, the following section shall be inserted, namely :— Insertion of new section 17A in Bom. VI of 1912.

"17A. All elections under this Act shall be made according to the distributive system of voting. Elections to be held by distributive vote.

Explanation.—The distributive system of voting means a system of voting in which every voter shall be entitled to give as many votes as there are seats to be filled:

Provided that no voter shall give more than one vote to any one candidate:

Provided further that no voting papers shall be deemed to be valid unless the voter has recorded all the votes which he is entitled to give.".

13. Paragraph 3 of the Schedule to the said Act and the note thereunder shall be deleted. Amendment of Schedule to Bom. VI of 1912.

Government of Bombay

LEGAL DEPARTMENT

[L. C. Bill No. II OF 1950.]

(As read for the third time and passed by the Legislative Council on the 27th September 1950.)

(As read for the third time and passed with amendments by the Legislative Assembly on the 16th October 1950.)

(Amendments made by the Legislative Assembly were agreed to by the Legislative Council on the 25th October 1950.)

A Bill to amend the Bombay Medical Act, 1912.

[Dr. M. D. D. Gilder, M.L.A.]

MO-v Bk Hb 328—3

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

Registered No. B-1

The
Bombay Government Gazette
PUBLISHED BY AUTHORITY
WEDNESDAY, 20TH DECEMBER 1950.
Separate paging is given to this Part in order that it may be filed as a separate compilation

PART IV

Acts of the Bombay Legislature and Ordinances promulgated and Regulations made by the Governor.

CONTENTS.

PAGES
BOMBAY ACT No. LV OF 1950—An Act to amend the Bombay Medical Act, 1912 567-571

The following Act of the Bombay Legislature having been assented to by the President on the 14th December 1950 is hereby published for general information.

J. R. DHURANDHAR,
Additional Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. LV OF 1950.

(First published, after having received the assent of the President, in the "Bombay Government Gazette" on the 20th December 1950.)

An Act to amend the Bombay Medical Act, 1912.

Bom. VI of 1912.

WHEREAS it is expedient to amend the Bombay Medical Act, 1912, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Medical (Amendment) Act, 1950.

(*2*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Bom. VI of 1912.

Amendment of section 1 of Bom. VI of 1912.

2. In section 1 of the Bombay Medical Act, 1912 (hereinafter called the said Act),—

(*1*) in the marginal note to the said section, for the words ", extent and definition" the words "and extent" shall be substituted;

(*2*) sub-section (*3*) shall be deleted.

Amendment of section 2 of Bom. VI of 1912.

3. In section 2 of the said Act,—

(*1*) for sub-section (*2*), the following shall be substituted, namely:—

"(*2*) The Medical Council shall consist of fourteen members who shall be appointed in the following manner, namely:—

(*a*) five members nominated by the State Government out of whom not more than one shall be from amongst those who are not registered under this Act;

(*b*) three members elected by—

(*i*) the members of Faculties of Medicine of the Universities established by any law for the time being in force in the State of Bombay, and

(*ii*) the members of the Governing Body of the College of Physicians and Surgeons, Bombay:

Provided that no person who is a member of two or more such Faculties or of any such Faculty and the said Governing Body shall be entitled to vote more than once;

(*c*) six members elected by the medical practitioners who are registered under this Act.";

(*2*) for sub-section (*3*), the following shall be substituted, namely:—

"(*3*) The President of the Medical Council shall be elected by the members from amongst themselves.

(*4*) The election of the President and members shall, subject to the provisions of this Act, be held at such time and place and in such manner as the Medical Council may, by rules or regulations made from time to time in this behalf, direct.".

Amendment of section 3 of Bom. VI of 1912.

4. In section 3 of the said Act,—

(*1*) for sub-section (*1*), the following shall be substituted, namely:—

"(*1*) The President and members of the Medical Council shall hold office for a term of five years from the date of their nomination or election or until their successors have been duly nominated or elected, whichever is longer, and shall be eligible for re-nomination or re-election, as the case may be.";

(*2*) in sub-section (*4*),—

(*a*) in clause (*a*), the words "from India" shall be deleted;

(*b*) clause (*b*) shall be deleted;

(*c*) in clause (*c*),—

(*i*) for the words, brackets and letters "In any case not provided for in clauses (*a*) and (*b*)" the words, brackets and letter "Except in the case provided for in clause (*a*)," shall be substituted;

(*ii*) after the word "consecutive" the word "ordinary" shall be inserted.

Amendment of section 5 of Bom. VI of 1912.

5. In section 5 of the said Act, in sub-section (*1*),—

(*1*) the words "granting leave to" shall be deleted;

(*2*) after the words "act as Registrar", where they occur for the first time, the words "for a period which exceeds or is likely to exceed the period which the State Government may, from time to time, direct" shall be inserted.

Amendment of section 7 of Bom. VI of 1912.

6. In section 7 of the said Act,—

(*1*) for sub-section (*1*), the following shall be substituted, namely :—

"(*1*) (*a*) Every person shall, if he holds any of the medical qualifications included in the First or Second Schedule to the Indian Medical Council Act, 1933, be entitled to be registered under this Act, on payment of a fee of fifteen rupees, on giving a correct description of his qualifications, with the dates on which they were granted, and on presentation of his degree, diploma or licence.

XXVII of 1933.

(*b*) No person who possesses a medical qualification granted by any authority in any place outside the territory of India other than those specified in the Second Schedule to the said Act shall be registered under this Act, unless the procedure specified in clause (*c*) has been followed.

(*c*) The Medical Council shall forward to the Executive Committee constituted under section 9 of the Indian Medical Council Act, 1933, an application for registration received by it from any medical practitioner who is a citizen of India but who does not possess any of the medical qualifications granted by a medical institution specified in the said Second Schedule to the said Act. If the said Committee is satisfied that the degree, diploma, licence or certificate held by the applicant is such as to secure the possession by the applicant of requisite knowledge and skill for the efficient practice of medicine, surgery or midwifery, it may recommend that the person should be registered and the Medical Council shall accordingly register him.";

XXVII of 1933.

(*2*) in sub-section (*1a*),—

(*a*) after the words "registration certificate" the words "and on payment of a fee of fifteen rupees" shall be inserted;

(*b*) the words "free of charge," shall be deleted.

Substitution of new section for section 9 of Bom. VI of 1912.

7. For section 9 of the said Act, the following shall be substituted, namely :—

Removal of medical practitioner's name from register for misconduct.

"9. (*1*) If a medical practitioner has been after due inquiry by the Medical Council found guilty of any misconduct, the Medical Council may—

(*a*) direct the name of such medical practitioner to be removed at once from the register, or

(*b*) postpone the making of such direction for such period and under such conditions as it thinks fit :

Provided that if after or at any time before the expiry of the period so specified, the Medical Council is satisfied that the medical practitioner has not contravened any of the conditions so prescribed and his conduct is otherwise satisfactory, the Medical Council may direct that his name shall not be removed from the register in consequence of the misconduct of which he was found guilty.

Explanation.—For the purposes of this section, 'misconduct' shall mean—

(*a*) the conviction of the medical practitioner by a criminal court for an offence which involves moral turpitude and which is cognizable within the meaning of the Code of Criminal Procedure, 1898;

(*b*) the conviction under the Army Act, 1950, of the medical practitioner subject to military law for an offence which is cognizable within the meaning of the Code of Criminal Procedure, 1898; or

(*c*) any conduct which, in the opinion of the Medical Council, is infamous in relation to the medical profession.

(*2*) The Medical Council may, at any subsequent date, if they think fit, direct that any name so removed shall be re-entered.".

Insertion of new section 9A in Bom. VI of 1912.

8. After section 9 of the said Act, the following section shall be inserted, namely :—

Renewal fee.

"9A. (*1*) Notwithstanding anything contained in section 7 or 17, the Medical Council may direct that a renewal fee of such amount as may be approved by the State Government shall be paid by each medical practitioner for the continuance of his name on the register.

(*2*) If the renewal fee is not paid before the date fixed by the Medical Council the Registrar shall remove the name of the defaulter from the register :

Provided that the name so removed may be re-entered in the register on payment of the renewal fee in such manner and subject to such conditions as the Medical Council may, by rules or regulations, direct.".

Amendment of section 10 of Bom. VI of 1912.

9. In section 10 of the said Act,—

(*1*) in sub-section (*1*),—

(*a*) the words "either under the Medical Acts or" shall be deleted.

(*b*) after the words "this Act" the words and figures "or under the Bombay Medical Practitioners' Act, 1938" shall be added;

(*2*) in sub-section (*2*),—

(*a*) the words "under the Medical Acts or" shall be deleted;

(*b*) after the words "this Act" the words and figures "or under the Bombay Medical Practitioners' Act, 1938" shall be added.

Amendment of section 11 of Bom. VI of 1912.

10. In section 11 of the said Act,—

(*1*) the words "under the Medical Acts or" shall be deleted;

(*2*) after the words "this Act" the words and figures "or under the Bombay Medical Practitioners' Act, 1938" shall be added.

Substitution of new section for section 17 of Bom VI of 1912.

11. For section 17 of the said Act, the following shall be substituted, namely :—

Publication of Medical List.

"17. (*1*) The Registrar shall every five years on or before a date to be fixed by the Medical Council cause to be printed and published a correct list of the names, addresses and qualifications of all persons for the time being entered in the Register and the dates when such qualifications were granted, in alphabetical order according to the surnames of the persons registered.

(2) The Registrar shall cause to be printed and published annually on or before a date to be fixed by the Medical Council—

(a) a supplementary list arranged in the manner specified in sub-section (1), of the names, addresses, dates of registration and qualifications together with the dates of acquiring them of all persons for the time being entered or re-entered in the register and not included in any subsisting list or supplementary list already printed and published; and

(b) a separate list arranged in the same manner and giving the same particulars of persons included in any subsisting list or supplementary list whose names have since been erased or removed from and not re-entered in the Register; and

(c) if during any year a medical practitioner included in any subsisting list or supplementary list has communicated a change of address, a further list arranged in the same manner of the medical practitioner who has so communicated the change of address.

(3) Every Court shall presume that every person entered either in the list referred to in sub-section (1) or in any supplementary list referred to in clause (a) of sub-section (2) and not entered in the latest of the separate lists referred to in clause (b) of sub-section (2) is duly registered under this Act and that no other person is so registered.".

Insertion of new section 17A in Bom. VI of 1912.

12. After section 17 of the said Act, the following section shall be inserted, namely :—

Elections to be held by distributive vote.

"17A. All elections under this Act shall be made according to the distributive system of voting.

Explanation.—The distributive system of voting means a system of voting in which every voter shall be entitled to give as many votes as there are seats to be filled :

Provided that no voter shall give more than one vote to any one candidate :

Provided further that no voting papers shall be deemed to be valid unless the voter has recorded all the votes which he is entitled to give.".

Amendment of Schedule to Bom. VI of 1912.

13. Paragraph 3 of the Schedule to the said Act and the note thereunder shall be deleted.

MO-V IV—125

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.